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SENATE BILL NO. 786

Offered January 14, 2015

Prefiled December 31, 2014

A *BILL to amend and reenact §§ 24.2-202, 24.2-542, 24.2-543, and 24.2-673 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-202.1, relating to electors for President and Vice President; allocation of electoral votes.*

Patrons—Carrico, Chafin, Ruff and Stanley; Delegates: Austin, Bell, Richard P., Berg, Campbell and Fariss

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-202, 24.2-542, 24.2-543, and 24.2-673 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-202.1 as follows:

§ 24.2-202. Electors for President and Vice President.

The qualified voters of the Commonwealth shall choose the Commonwealth's electors for President and Vice President of the United States at the general election in November 1996, and every fourth year thereafter. Each voter shall vote for *two candidates designated as electors to which Virginia is entitled by virtue of its representation in the United States Senate and in addition shall vote for a number of electors which equals the whole number of senators and representatives to which the Commonwealth at that time is entitled in the Congress of the United States House of Representatives.*

§ 24.2-202.1. Allocation of electoral votes.

A. *The two electoral votes to which Virginia is entitled by virtue of its representation in the United States Senate shall be allocated to the slate of presidential electors that receives the highest number of votes cast statewide.*

B. *The total number of electoral votes to which Virginia is entitled by virtue of its representation in the United States House of Representatives shall be allocated among the slates of presidential electors according to the proportional share each slate receives of the total number of votes cast statewide for President. The allocation shall be in whole numbers and shall be determined according to the provisions of this section.*

C. *The total number of votes cast for each slate of presidential electors shall be divided by the total number of votes cast for all slates of electors, and the resulting proportion shall be multiplied by the number of electoral votes to which Virginia is entitled. The resulting numbers of electoral votes for each slate shall be rounded to the nearest whole number. No slate of electors shall be entitled to any electoral votes if its proportion of the total vote cast results in less than a full electoral vote after rounding to the nearest whole number.*

D. *If the total number of electoral votes allocated by the method described in subsection C results in a sum of electoral votes greater than that to which Virginia is entitled, the electoral vote allocated to the slate entitled to at least one electoral vote and receiving the fewest number of votes cast shall be reduced by whole electoral votes until the number of electoral votes allocated equals the number of electoral votes to which Virginia is entitled.*

E. *If the total number of electoral votes allocated by the method described in subsection C results in a sum of electoral votes that is less than the number of electoral votes to which Virginia is entitled, the slate receiving the highest number of votes shall receive any unallocated electoral votes until all the electoral votes to which Virginia is entitled have been allocated. If two or more slates have received the identical number of votes cast, the Secretary of the Commonwealth shall determine by lot which of the presidential slates shall have their numbers of electoral votes increased or decreased by a whole electoral vote until all the electoral votes to which Virginia is entitled have been allocated.*

F. *The order in which political parties pursuant to § 24.2-542, or other groups pursuant to § 24.2-543, have listed their slates of electors shall determine the individual electors who are elected. For each slate that is entitled to at least one electoral vote, the first elector listed on the slate shall be deemed to be elected and so on through the party or group slate of electors until the number elected from that slate equals the number of electoral votes to which the party or group is entitled.*

§ 24.2-542. State Board to be furnished names of electors selected by political parties; oaths of electors.

In elections for President and Vice President of the United States, the appropriate chairman or secretary of each political party shall furnish to the State Board by noon of the seventy-fourth day

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58 before the presidential election (i) the names of the electors selected by the party at its convention held
59 for that purpose, together with the names of the political party and of the candidates for President and
60 Vice President for whom the electors are required to vote in the Electoral College and (ii) a copy of a
61 subscribed and notarized oath by each elector stating that he will, if elected, cast his ballot for the
62 candidates for President and Vice President nominated by the party that selected the elector, or as the
63 party may direct in the event of death, withdrawal or disqualification of the party nominee. *Two electors*
64 *shall be designated as the party's candidates for the electoral votes to which Virginia is entitled by*
65 *virtue of its representation in the United States Senate, and the names of the remaining electors shall be*
66 *listed in the order in which the political party wishes to have its successful candidates for the electors*
67 *to which Virginia is entitled by virtue of its representation in the United States House of Representatives*
68 *determined pursuant to § 24.2-202.1. In the event of the death or withdrawal of a candidate of a*
69 *political party for President or Vice President, that party may substitute the name of a different*
70 *candidate before the State Board certifies to the county and city electoral boards the form of the official*
71 *ballots. The State Board shall also be furnished, if it requests, with satisfactory evidence that any person*
72 *undertaking to act as an elector on behalf of any political party is, in fact, duly and properly authorized*
73 *to do so.*

74 **§ 24.2-543. How other groups may submit names of electors; oaths of electors.**

75 A. A group of qualified voters, not constituting a political party as defined in § 24.2-101, may have
76 the names of electors selected by them, including one elector residing in each congressional district and
77 two from the Commonwealth at large, printed upon the official ballot to be used in the election of
78 electors for President and Vice President by filing a petition pursuant to this section. The petition shall
79 be filed with the State Board by noon of the seventy-fourth day before the presidential election. The
80 petition shall be signed by at least 5,000 qualified voters and include signatures of at least 200 qualified
81 voters from each congressional district. The petition shall be signed by petitioners on and after January 1
82 of the year of the presidential election only and contain the residence address of each petitioner. The
83 signature of each petitioner shall be witnessed either by a person who is a constitutionally qualified
84 candidate for President of the United States, who may witness his own petition, or by a person who is a
85 resident of the Commonwealth and who is not a minor or a felon whose voting rights have not been
86 restored and whose affidavit to that effect appears on each page of the petition. The petition shall state
87 the names of the electors selected by the petitioners, the party name under which they desire the named
88 electors to be listed on the ballot, and the names of the candidates for President and Vice President for
89 whom the electors are required to vote in the Electoral College. *Two electors shall be designated as the*
90 *group's candidates for the electoral votes to which Virginia is entitled by virtue of its representation in*
91 *the United States Senate, and the names of the remaining electors shall be listed in the order in which*
92 *the petitioning group wishes to have its successful candidates for the electors to which Virginia is*
93 *entitled by virtue of its representation in the United States House of Representatives determined*
94 *pursuant to § 24.2-202.1. The persons filing the petition shall file with it a copy of a subscribed and*
95 *notarized oath by each elector stating that he will, if elected, cast his ballot for the candidates for*
96 *President and Vice President named in the petition, or as the party may direct in the event of death,*
97 *withdrawal or disqualification of the party nominee. In order to utilize a selected party name on the*
98 *ballot, the petitioners shall have had a state central committee composed of registered voters from each*
99 *congressional district of the Commonwealth, a party plan and bylaws, and a duly designated chairman*
100 *and secretary in existence and holding office for at least six months prior to filing the petition. The State*
101 *Board may require proof that the petitioners meet these requirements before permitting use of a party*
102 *name on the ballot. The party name shall not be identical with or substantially similar to the name of*
103 *any political party qualifying under § 24.2-101 and then in existence.*

104 In the event of the death or withdrawal of a candidate for President or Vice President qualified to
105 appear on the ballot by party name, that party may substitute the name of a different candidate before
106 the State Board certifies to the county and city electoral boards the form of the official ballots.

107 In the event that a group of qualified voters meets the requirements set forth in this section except
108 that they cannot utilize a party name, the electors selected and the candidates for President and Vice
109 President shall be identified and designated as "Independent" on the ballot. Substitution of a different
110 candidate for Vice President may be made by the candidate for President before the State Board certifies
111 to the county and city electoral boards the form of the official ballot.

112 In the event of the death or disqualification of any person listed as an elector for candidates for
113 President and Vice President on a petition filed pursuant to this section, the party or candidate for
114 President, as applicable, may substitute the name of a different elector. Such substitution shall not
115 invalidate any petition of qualified voters circulated with the name of the deceased or disqualified
116 elector provided that notice of the substitution is filed with the State Board by noon of the
117 seventy-fourth day before the presidential election. Notice of the substitution and the name of any
118 substitute elector shall be submitted on a form prepared by the State Board.

119 B. If the State Board determines that a candidate for President does not qualify to have his name

appear on the ballot pursuant to this section by reason of the candidate's filed petition not containing the minimum number of signatures of qualified voters for the office sought, the candidate may appeal the determination to the State Board within seven calendar days of the issuance of the notice of disqualification. The notice of disqualification shall be sent by email or regular mail to the address on file for the candidate, and such notice shall be deemed sufficient. The State Board shall hear the appeal within three business days of its filing.

The State Board shall develop procedures for the conduct of such an appeal. The consideration on appeal shall be limited to whether or not the signatures on the petitions that were filed were reasonably rejected according to the requirements of this title and the rules and procedures set forth by the State Board for checking petitions. Immediately after the conclusion of the appeal hearing, the State Board shall notify the candidate of its decision in writing. The decision on appeal shall be final and not subject to further appeal.

§ 24.2-673. Candidates having highest number of votes to receive certificate of election.

Except in the case of a presidential election pursuant to §§ 24.2-202, 24.2-202.1, and 24.2-203 or a recount pursuant to the provisions of Chapter 8 (§ 24.2-800 et seq.) of this title, in all elections for the choice of any officer, unless it is otherwise expressly provided, the person having the highest number of votes for any office shall be deemed to have been elected to such office and shall receive the certificate of election.